

On August 10, 2022, the United States moved for Summary Judgment against Defendants Mesquias and McInnis on liability of its FCA claims, ECF No. 32.

On October 11, 2022, the United States moved for Default Judgment against Defendant Mesquias for his failure to appear and defend himself in this matter, ECF No. 37.

On November 17, 2022, this Court entered a Default Judgment against Defendant Mesquias in favor of the United States for treble single damages of \$29,627,410 plus civil penalties of \$83,840,000 for a total of \$113,467,410 for his failure to appear and defend himself in this matter, ECF No. 39.

On January 18, 2023, this Court granted the United States' Motion for Summary Judgment on FCA liability against Defendant McInnis, ECF No. 43.

On February 16, 2023, the United States moved for Summary Judgment against Defendant McInnis on FCA damages, ECF No. 44.

On March 24, 2023, this Court granted the United States' Motion for Summary Judgment on FCA damages and ordered Defendant McInnis to pay the United States treble single damages in the amount of \$29,627,410 and civil penalties in the amount of \$83,840,000 for 3,463 FCA violations, for a total amount of \$113,467,410, with such amount to be paid jointly and severally with Defendant Mesquias, ECF No. 47.

The Court has entered several Orders on liability and damages against the two individual defendants served in this matter. Now, Relators seek to dismiss the unserved corporate defendants, and the United States seeks a final judgment in its favor against the individual defendants.

STATEMENT OF POINTS AND AUTHORITIES

First, under Federal Rule of Civil Procedure 41, "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper." Defendants

Merida and Illumina have not been served with any complaint in this matter nor have they otherwise appeared. Relators wish to abandon their claims against Merida and Illumina and ask this Court to dismiss them with prejudice.

Second, “[e]very judgment ... must be set out in a separate document...” and “[a] party may request that judgment be set forth on a separate document....” FED. R. CIV. P. 58(a), (d). This Court has entered a Default Judgment against Defendant Mesquias in favor of the United States for treble single damages of \$29,627,410 plus civil penalties of \$83,840,000 for a total of \$113,467,410 for his failure to appear and defend himself in this matter, ECF No. 39. This Court has entered Summary Judgment against Defendant McInnis in favor of the United States for treble single damages of \$29,627,410 plus civil penalties of \$83,840,000 for a total of \$113,467,410 with such amount to be paid jointly and severally with Defendant Mesquias. ECF No. 47. Because these judgments resolve all claims against Defendants Mesquias and McInnis, the United States asks this Court to enter a final judgment for the damages ordered against the defendants.

A proposed Order, dismissing Defendants Merida and Illumina, and a proposed Final Judgment, ordering and adjudging damages in favor of the United States against Defendants Mesquias and McInnis, is filed with this Joint Motion.

CONCLUSION

For the foregoing reasons, the Parties jointly move this Court to dismiss Defendants Merida and Illumina and enter a final judgment for damages in favor of the United States against Defendants Mesquias and McInnis.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Joint Motion to Dismiss and for Entry of Final Judgment was served by CM/ECF on all counsel of record on this, the 4th day of May, 2023.

/s/ Joe Kendall

JOE KENDALL

/s/ Laura E. Collins

LAURA E. COLLINS

Assistant United States Attorney

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